

REMARKS

In light of the remarks to follow, reconsideration and allowance of this application are respectfully requested.

Claims 1-21 and 45-52 remain in this application. The claims are amended to address the Examiner's arguments, discussed more fully below. In light of these amendments, it is respectfully submitted, claims 1-21 and 45-52 are in condition for allowance.

Claims 1-21 and 45-52 were rejected under 35 USC 101 as being directed to non-statutory subject matter. Method claims 1-21 were rejected because the claims did not recite being tied to particular apparatus. By this amendment, the method claims are amended to be tied to a processor, for example, as shown in Fig. 2. Claims 45-52 were rejected because the claims were directed to a "graphical representation" which the Examiner asserts does not fall within a statutory class of patentable inventions. By this amendment, claims 45-52 are amended so as to be directed clearly to apparatus, which is a patent-eligible category of invention. Accordingly, the withdrawal of the rejection of claims 1-21 and 45-52 is respectfully solicited.

Claims 1-3, 10-18, 20, 45 and 51 were rejected as being anticipated by Rogers (U.S. Patent 5,497,500). Interestingly, these claims were amended in response to the previous Office Action dated April 17, 2008; and in the previous Office Action these same claims were rejected as being obvious in view of the combination of Rogers and Herring (U.S. Patent 6,606,326). Evidently, the limitations added to these claims persuaded the Examiner to change his basis of rejection from obviousness to anticipation. Nevertheless, it is respectfully submitted that claims 1-3, 10-18, 20, 45 and 51 are patentably distinct over Rogers.

In rejecting the claims, the Examiner argues that Rogers describes the "dynamic" functions performed by Applicants' claims method. In support of this argument, the Examiner

contends that the "dynamic" nature of Applicants' claims can be broadly interpreted to the extent that Rogers can be construed as broadly describing "dynamic" functions. To address this argument, the method claims are amended herein to better define what is meant by "dynamically determining." Claim 1, for example, recites that the first processing element corresponding to the first processing apparatus is "dynamically determin[ed]...as a function of changing functionalities and capabilities of the first processing apparatus." Likewise, claim 1 recites that the second processing element corresponding to the second processing apparatus is "dynamically determin[ed]... as a function of changing functionalities and capabilities of the second processing apparatus." Thus, as the functionalities and capabilities of the processing apparatuses change, the corresponding processing elements likewise change. Consequently, the processing web generated by Applicants' claimed method adapts dynamically to changes in functions and capabilities of the oscilloscope in which it is used; and permits the user to observe and graphically control the oscilloscope's changing capabilities and functions. See, for example, page 8, line 14 to page 9, line 6; page 9, lines 12-17; and page 20, lines 4-10 of the present application. It is respectfully submitted that, notwithstanding the Examiner's attempt to characterize the elements that make up Rogers' virtual instrument (mentioned at column 26, line 22 to column 27, line 40, and particularly cited by the Examiner), none of the elements shown in Rogers' virtual instrument are "dynamically determined as a function of changing functionalities and capabilities" of the apparatus to which those elements correspond.

Inasmuch as the dynamic nature of Applicants' claimed invention has been more particularly defined, and since Rogers is not suggestive of Applicants' claimed dynamic determinations, it is respectfully submitted that method claims 1 and 14 are not anticipated by Rogers. Accordingly, the withdrawal of the rejection of claims 1 and 14 is respectfully solicited.

Claim 14 is amended in a manner similar to the amendment made to claim 1. Thus, like claim 1, claim 14 recites that the first processing element corresponding to the first processing apparatus is "dynamically determin[ed]...as a function of changing functionalities and capabilities of the first processing apparatus;" and that the second processing element corresponding to the second processing apparatus is "dynamically determin[ed]... as a function of changing functionalities and capabilities of the second processing apparatus." Therefore, claim 14 is patentably distinct from and is not anticipated by Rogers.

Claims 2-3 and 10-13 depend from claim 1 and claims 15-18 and 20 depend from claim 14. Consequently, these dependent claims include all of the limitations recited by the respective claim from which they depend. Therefore, the rejections of these dependent claims should be withdrawn for the reasons noted above. Additionally, each of the dependent claims presents an independently patentable combination in its own right, and is therefore patentable for this additional reason.

Claim 45 is directed to apparatus for generating a graphical representation of a processing web that represent processing apparatuses of the oscilloscope in which that web is used. Contrary to the Examiner's interpretation of Rogers, it is respectfully submitted that Rogers fails to disclose,

means for providing a first processing element of said processing web corresponding to a first processing apparatus of the oscilloscope for processing a received waveform signal, said first processing element being placed in a particular location based at least in part upon its function and various inputs to and outputs from said first processing element;

means for providing a second processing element of said processing web corresponding to a second processing apparatus of the oscilloscope for processing a received waveform signal, said second processing element being placed in a particular location downstream from said first processing element based at least in part upon its function, various inputs to and outputs from said second processing element, and an operating relationship between said second processing element

and said first processing element, each of said first and second processing elements having at least one input pin and at least one output pin, and each processing element being adapted to receive a waveform signal at its input pin, to process the received waveform signal and to forward the processed waveform signal from its output pin to a downstream processing element; and

a connection for connecting said first processing element to second processing element after said first and second processing elements have been placed at their respective locations in said processing web, indicating a flow of data therebetween;

wherein said first processing element is a waveform acquisition processing element; and wherein said second processing element is a display processing element; and

wherein said processing web adapts to changes in functions and capabilities of said oscilloscope.

In particular, Rogers does not disclose those claimed features emphasized above. As best can be understood, Rogers describes waveform generation or synthesis, but Applicants' representative has not found a disclosure in Rogers of generating a graphical representation of the processing web defined by claim 45. Accordingly, the withdrawal of the rejection of claim 45 as being anticipated by Rogers is respectfully solicited.

Claim 51 depends from claim 45 and, therefore, includes the very same limitations recited by claim 45. Accordingly, claim 51 is patentably distinct over Rogers for the same reasons discussed above in connection with claim 45, and the rejection of claim 51 should be withdrawn.

Claims 4-9, 19, 21, 50 and 52 were rejected as being obvious in view of the combination of Rogers and Zink (U.S. Patent 6,738,964). Zink was cited for a disclosure of using different colors to represent different data flow. But, Zink does not cure the aforementioned deficiency in Rogers regarding the lack of dynamically determining a processing element as a function of changing functionalities and capabilities of the apparatus to which that processing element

corresponds. Since claims 4-9, 19, 21, 50 and 52 are dependent claims and, therefore, include the “dynamic determination” limitation recited by the claims from which these dependent claims depend, and since the combination of Rogers and Zink fails to suggest this limitation, it follows that dependent claims 4-9, 19, 21, 50 and 52 are patentably distinct over this combination.

Claims 46-49 were rejected as being obvious in view of the combination of Rogers and Herring (U.S. Patent 6,606,326). Herring was relied upon for allegedly describing a processing element that waits for a signal from a second element before sending a processed waveform to that second element. Irrespective of whether this is an accurate characterization of Herring’s disclosure, it is respectfully submitted that Herring, like Rogers, fails to suggest the “dynamic determination” limitation recited by claim 45, and particularly the recitations of claim 45 quoted above. Therefore, even when Herring is combined with Rogers, the result of that combination fails to enable one of ordinary skill in the art to make and use the invention defined by Applicants’ claim 45. Since claims 46-49 depend from claim 45, these dependent claim include all of the features recited by claim 45, especially those features quoted above. It follows, then, that if claim 45 is unobvious over the Rogers-Herring combination, dependent claims 46-49 likewise are unobvious over this combination. Applicants therefore respectfully request that the rejection of claims 46-49 under 35 USC 103 be withdrawn.

CONCLUSION

Applicants have made a diligent effort to explain why claims 1-21 and 45-52 are in condition for allowance, and notice to this effect is earnestly solicited. If the Examiner is unable to issue a Notice of Allowance at this time, it is respectfully requested that the Examiner contact the undersigned attorney to discuss any further outstanding issues.

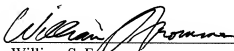
Early and favorable consideration is respectfully requested.

Please charge any fees that may be occasioned by this paper to our Deposit Account No.

50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:

A handwritten signature in cursive script, appearing to read "William S. Frommer", written over a horizontal line.

William S. Frommer
Reg. No. 25,506
(212) 588-0800